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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
LUIS CABANA, LEOPOLDO AVALO and  
DARRELL SMITH,

Plaintiffs,

- against -

NOTHING HEAVY HOLDING INC. D/B/A EMPIRE  
DINER HOLDINGS CORP., MITCHELL WOO and  
RENATE GONZALEZ

Defendants.  
----- X

Civil Action No. 10-CIV-3924

**STIPULATION OF  
DISCONTINUANCE  
WITH PREJUDICE**

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned attorneys for the respective parties, that whereas no party hereto is an infant or incompetent person for whom a committee has been appointed, or a conservatee, and no person not a party has an interest in the subject matter of the action, that the above entitled action is hereby discontinued with prejudice and without costs or attorneys' fees to any party.

Dated: New York, New York  
September 13, 2010

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September 13, 2010

LAW OFFICES OF WILLIAM CAFARO

TANNENBAUM HELPERN SYRACUSE  
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By: \_\_\_\_\_

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By: \_\_\_\_\_

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SO ORDERED: \_\_\_\_\_

Naomi Reice Buchwald, U.S.D.J.

Dated: September 17, 2010